

FILED
IN CLERK'S OFFICE
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
2005 OCT -6 P 4:31

BALBIR SINGH,)	U.S. DISTRICT COURT DISTRICT OF MASS.
Plaintiff,)	
v.)	Civil Action No. 05 11671 GAO
MGI PHARMA, INC., and)	
MGI PHARMA BIOLOGICS, f/k/a,)	
ZYCOS, INC.,)	
Defendants.)	

**DEFENDANT MGI PHARMA BIOLOGICS' MOTION TO DISMISS
COUNTS IV AND V OF PLAINTIFF'S COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant MGI Pharma Biologics, by and through its counsel, respectfully moves the Court to dismiss Counts IV (Breach of Contract Implied-in-Fact) and V (Unjust Enrichment) of the Complaint with prejudice because they fail to state a claim upon which relief can be granted, based upon all of the arguments and authorities set forth in Defendant's supporting memorandum of law, filed with this motion.

Local Rule 7.1 Certification

Pursuant to Local Rule 7.1, the undersigned certifies that defense counsel has contacted Plaintiff's counsel to discuss this motion and has not been able to reach agreement.

Dated this 6th day of October 2005.


 Donald R. Pinto, Jr., BBO 548421
 RACKEMANN SAWYER & BREWSTER
 One Financial Center
 Boston, MA 02111
 Tel: 617-951-1118
 Fax: 617-542-7437

Andrew R. McGaan, P.C.
Jamenda A. McCoy
KIRKLAND & ELLIS LLP
200 East Randolph Drive
Chicago, IL 60601
Tel: 312-861-2000
Fax: 312-861-2200

*Counsel for Defendant
MGI Pharma Biologics, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this date I served a true copy of the foregoing document on the attorney of record for each other party by mail.



Donald R. Pinto, Jr.

Dated: October 6, 2005